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**FILED**  
**DISTRICT COURT OF GUAM**

MAR 18 2008 R.D.

**JEANNE G. QUINATA**  
**Clerk of Court**

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE TERRITORY OF GUAM**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

YOUNG MIN KO,

Defendant.

CRIMINAL CASE NO. 06-00092

**PLEA AGREEMENT**

Pursuant to Rule 11(c)(1)(B), the United States and the defendant, YOUNG MIN KO, enter into the following plea agreement:

1. The defendant agrees to enter a guilty plea to Count II of a Superseding Indictment charging him with Fraud in Connection with Identification Documents in violation of Title 18, United States Code, Sections 1028(a)(1) and 1028(b)(1)(A)(ii). The government will move to dismiss Count I at sentencing.

2(a) The defendant, YOUNG MIN KO, further agrees to fully and truthfully cooperate with Federal law enforcement agents concerning their investigation of fraudulently issued Guam drivers licenses, illegal employment of aliens, and related unlawful activities. Cooperation shall include providing all information known to defendant regarding any criminal activity, including

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1 but not limited to the offense to which he is pleading guilty. Cooperation will also include  
2 complying with all reasonable instructions from the United States; submitting to interviews by  
3 investigators and attorneys at such reasonable times and places to be determined by counsel for  
4 the United States; producing to the United States all non-privileged documents (including  
5 claimed personal documents) and other materials in the possession, custody or control of  
6 defendant requested by attorneys and agents of the United States; and testifying fully and  
7 truthfully before any grand juries, hearings, trials or any other proceedings where defendant's  
8 testimony is deemed by the United States to be relevant. Defendant understands that such  
9 cooperation shall be provided to any state, territorial, local or federal law enforcement agencies  
10 designated by counsel for the United States. Further, it is understood and agreed that defendant  
11 shall not directly, indirectly, or intentionally disclose anything defendant knows or had done  
12 concerning the United States' investigation to anyone other than defendant's attorney. Defendant  
13 agrees to take no steps directly or indirectly to warn any subject of this investigation that  
14 defendant, a subject or anyone else is being investigated.  
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16 2(b) The United States will make this cooperation known to the Court prior to the  
17 defendant's sentencing. The defendant further understands that he remains liable and subject to  
18 prosecution for any criminal schemes of which he does not fully advise the United States, or for  
19 any material omissions in this regard.

20 2(c) This agreement is not contingent in any way upon the outcome of any investigation,  
21 proceeding or subsequent trial. Thus, none of the rights and obligations described above are in  
22 any way dependent upon a grand jury returning an indictment, a jury's verdict at any trial, or the  
23 success of any prosecution.

24 2(d) Except as otherwise herein provided, and in particular in Paragraph 8 of this plea  
25 agreement, the United States agrees not to prosecute defendant for any other non-violent  
26 offenses which were committed in the District of Guam or the Northern Mariana Islands (CNMI)  
27 which defendant reveals to Federal authorities during his cooperation with the United States.  
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1 This agreement is limited to crimes committed by defendant in the districts of Guam or the  
2 CNMI.

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4 3. The defendant, YOUNG MIN KO, understands that the maximum sentence for fraud in  
5 connection with an identification document which is a driver's license in violation of Title 18,  
6 U.S.C. §§ 1028(a)(1) and 1028(b)(1)(A)(ii), is a term of fifteen (15) years imprisonment, a  
7 \$250,000 fine, and a \$100 special assessment fee per count, which must be paid at the time of  
8 sentencing. Any sentence imposed may include a term of supervised release of not more than  
9 three (3) years in addition to such terms of imprisonment. Defendant understands that if he  
10 violates a condition of supervised release at any time prior to the expiration of such term, the  
11 court may revoke the term of supervised release and sentence him up to an additional two (2)  
12 years of incarceration pursuant to 18 U.S.C. § 3583(e)(3).

13 3(b) If defendant cooperates as set forth in Paragraph 2, the government will recommend  
14 that defendant receive the minimum term of incarceration recommended by the Sentencing  
15 Guidelines.

16 3(c) The government will recommend a fine within the Sentencing Guidelines range. If  
17 defendant is financially unable to immediately pay the fine in full, defendant agrees to make a  
18 full disclosure of his financial status to the United States Attorney's Office by completing a  
19 Financial Disclosure Form (OBD-500) for purpose of fixing a monthly payment schedule.  
20 Defendant understands that, by law, interest accrues on any remaining balance of the debt.

21 4. The defendant understands that to establish a violation of Fraud in Connection with  
22 Identification Documents in violation of Title 18, United States Code, Sections 1028(a)(1) and  
23 1028(b)(1)(A)(ii), the government must prove beyond a reasonable doubt:

24 First: that the defendant knowingly and without lawful authority  
25 produced an identification document, authentication feature or a  
false identification document, to-wit: a driver's license;

26 Second: the production of this document was in or affected interstate  
27 or foreign commerce.  
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2 5. The defendant agrees that the Sentencing Guidelines apply to this offense. The  
3 defendant also understands that the facts he stipulates to herein will be used, pursuant to 1B1.2,  
4 in calculating the applicable guidelines level. The Government and the defendant stipulate to the  
5 following facts for purposes of the Sentencing Guidelines:

6 (a) The defendant was born in 1967, and is a citizen of Korea.

7 (b) If the defendant cooperates with the United States by providing information  
8 concerning the unlawful activities of others, the government agrees that any self-incriminating  
9 information so provided will not be used against defendant in assessing his punishment, and  
10 therefore, pursuant to § 1B1.3 of the Sentencing Guidelines, this information should not be used  
11 in determining the applicable guidelines range.

12 (c) The defendant entered Guam February 14, 2004, on a Guam Tourist Visa Waiver; at  
13 that time an I-94 Departure form was stapled to his passport. Defendant decided to remain on  
14 Guam, instead of returning to Korea within 15 days. He gave his I-94 Departure form to Eun  
15 Young Lee. The government can prove that Lee, an employee of Continental Airlines, filed it  
16 with Continental Airlines, which in turn filed it with Customs & Border Protection, so that it  
17 appeared that defendant had returned to Korea February 26. Because defendant was in the  
18 United States illegally, he was not eligible to secure a U.S. social security number or a U.S.  
19 taxpayer identification number (TIN) or any other document issued by the United States which  
20 would evidence his right to remain in the United States.

21 The Guam Motor Vehicle Division (MVD) regulations prohibit an alien from receiving a  
22 Guam drivers license unless he has proof that he is entitled to be in the United States, as  
23 evidenced either by an original social security card, an original, notarized letter from the Social  
24 Security Administration authenticating his social security number, or an original letter from the  
25 Internal Revenue Service authenticating his TIN.

26 Defendant knew that regular drivers licenses could be illegally procured from the MVD.  
27 He knew that he had no social security number or other form of authentic United States  
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1 identification, so that he would have to obtain the license using fraudulent documents.  
2 Defendant paid ~~Lee~~ Hong between \$120-\$150 to help him secure a license. The government can  
3 prove that Eun Young Lee filed out the license application in defendant's name, using a false  
4 TIN for identification. On February 23, 2004, Eun Young Lee was present at the MVD when  
5 defendant and Hong submitted the application, which falsely certified that defendant's TIN was  
6 XXX-XX-6975. At a later date, Hong <sup>OR LEE</sup> directed him to go to the MVD and pick up his license.  
7 Defendant went to the MVD on March 10, 2004, and was issued license number 122 809 6843.  
8 He was given a printout of the information on his license, which reflected that the XXX-XX-  
9 6975 was his "Social Security/ID No." The production, issuance, transfer and use of this driver's  
10 license affected interstate and foreign commerce.

11 (d) The defendant understands that notwithstanding any agreement of the parties, the  
12 United States Probation Office will make an independent application of the Sentencing  
13 Guidelines. The defendant acknowledges that should there be discrepancies in the final  
14 sentencing guidelines range projected by his counsel or any other person, such discrepancies are  
15 not a basis to withdraw his guilty plea.

16 6. The defendant understands that this plea agreement depends on the fullness and  
17 truthfulness of his cooperation. Therefore, defendant understands and agrees that if he should  
18 fail to fulfill completely each and every one of his obligations under this plea agreement, or make  
19 material omissions or intentional misstatements or engage in criminal conduct after the entry of  
20 his plea agreement and before sentencing, the government will be free from its obligations under  
21 the plea agreement. Thus defendant, in addition to standing guilty of the matters to which he has  
22 pled pursuant to this agreement, shall also be fully subject to criminal prosecution for other  
23 crimes, and for the counts which were to be dismissed. In any such prosecution, the prosecuting  
24 authorities, whether Federal, State, or Local, shall be free to use against him, without limitation,  
25 any and all information, in whatever form, that he has provided pursuant to this plea agreement  
26 or otherwise; defendant shall not assert any claim under the United States Constitution, any  
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1 statute, Rule 11(f) of the Federal Rules of Criminal Procedure, Rule 410 of the Federal Rules of  
2 Evidence, or any other provision of law, to attempt to bar such use of the information.

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4 7. Defendant understands that whether he has completely fulfilled all of the obligations  
5 under this agreement shall be determined by the court in an appropriate proceeding at which any  
6 disclosures and documents provided by defendant shall be admissible and at which the United  
7 States shall be required to establish any breach by a preponderance of the evidence. In  
8 determining whether there has been a breach, the parties agree that any polygraph results and the  
9 polygrapher's conclusions and opinions shall be admissible.

10 8. In exchange for the Government's concessions in this plea agreement, the defendant  
11 waives any right to appeal or to collaterally attack this conviction but reserves the right to appeal  
12 the sentence imposed in this case. He agrees to waive all constitutional challenges to the validity  
13 of the Sentencing Guidelines. The defendant agrees that the government has bargained for a  
14 criminal conviction arising from his conduct. If at any time defendant's guilty plea or conviction  
15 is rejected, withdrawn, vacated or reversed, for whatever reason, or if any change of law renders  
16 the conduct for which he was convicted to be non-criminal, defendant agrees that he will enter a  
17 guilty plea to another charge encompassing the same or similar conduct. In such event,  
18 defendant waives any objections, motions or defenses based upon the Statute of Limitations,  
19 Speedy Trial Act, or constitutional restrictions as to the time of bringing such charges.

20 9. The defendant acknowledges that he has been advised of his rights as set forth below  
21 prior to entering into this plea agreement. Specifically, defendant has been fully advised of, has  
22 had sufficient opportunity to reflect upon, and understands the following:

23 (a) The nature and elements of the charge and the mandatory minimum penalty provided  
24 by law, if any, and the maximum possible penalty provided by law;

25 (b) His right to be represented by an attorney;

26 (c) His right to plead not guilty and the right to be tried by a jury and at that trial, the  
27 right to be represented by counsel, the right to confront and cross-examine witnesses against him,  
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1 and the right not to be compelled to incriminate himself, that is, the right not to testify;

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3 (d) That if he pleads guilty, there will not be a further trial of any kind on the charges to  
4 which such plea is entered so that by entering into this plea agreement, he waives, that is, gives  
5 up, the right to a trial;

6 (e) Because this plea is entered pursuant to Federal Rule of Criminal Procedure  
7 11(c)(1)(B), the defendant understands that he may not withdraw his guilty plea even if the court  
8 does not accept the sentencing recommendations of the government or his counsel;

9 (f) That, upon entry of a plea of guilty, or thereafter, the Court may ask him questions  
10 about the offenses to which he has pled, under oath, and that if he answers these questions under  
11 oath, on the record, his answers may later be used against him in prosecution for perjury or false  
12 statement if an answer is untrue;

13 (g) That he agrees that the plea agreement is voluntary and not a result of any force,  
14 threats or promises apart from this plea agreement;

15 (h) The defendant is satisfied with the representation of his lawyer and feels that his  
16 lawyer has done everything possible for his defense;

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1 (i) That this plea agreement has been translated into his native language and he fully  
2 understands it.  
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4  
5 DATED: 3/17/08

  
YOUNG MIN KO  
Defendant


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7  
8 DATED: 3/17/08

  
JOAQUIN C. ARRIOLA, JR.  
Attorney for Defendant

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10  
11 LEONARDO M. RAPADAS  
United States Attorney  
Districts of Guam and NMI

12  
13 DATED: 3/17/08

14 By:

  
KARON V. JOHNSON  
Assistant U.S. Attorney

15  
16  
17 DATED: 3/17/08

  
JEFFREY J. STRAND  
First Assistant U.S. Attorney